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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,473	10/18/2000	Brett Haarala	06530-0020	1891

22852 7590 03/15/2006

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER

HAYES, MICHAEL J

ART UNIT	PAPER NUMBER
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3767

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/690,473	Applicant(s) HAARALA ET AL.	
	Examiner Michael J. Hayes	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/21/05, see also interview summary.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 60,61,63-68,70-72,74-79,113 and 114 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 60,61,63-68,70-72,74-79,113 and 114 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/18/00</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution reopened

Prosecution is reopened in this application after a decision by the Board of Patent Appeals and Interferences for consideration of the prior art reference Villani (US Patent No. 5,848,989), as discussed below, which indicates the nonpatentability of the appealed claims. The prosecution is reopened as per CFR 1.198 for the consideration of matters not already adjudicated. See MPEP 1214.04.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 60, 61, 63-68, 70-72, 74-79, 113, and 114 are rejected under 35 U.S.C. 102(e) as being anticipated by VILLANI (US Patent No. 5,848,989). Villani discloses an access port to be implanted into a patient's body including an upper body part 2, lower body part 3 attachable to the upper body part (see fig. 2), a self-sealing unitary septum 4 (col. 4, ll. 29-31) between the upper body part 2 and the lower body part 3, the body parts made of implantable biocompatible material (col. 4, ll. 1-5), a reservoir 8 defined by the body portion and located between the septum 4 and lower body part 3, an outlet 9, an entry site 7 located on the upper body part 2 disposed opposite the outlet 9 and configured to permit the insertion of a guidewire or stylet 13.

Art Unit: 3767

The disclosed entry site shape and size and position in relation to the outlet 9 would permit the insertion of a stylet or guidewire (see fig. 3 where a stylet 13 is inserted within the entry site 5) through the body portion and into the outlet, and such would be recognized by persons of ordinary skill in the art. The outer surface of the septum 4 forms a portion of an exterior surface of the device, as seen in fig. 3. The prior art device also includes an access site 5 on the upper body part 2 that extends away from the reservoir substantially perpendicular to the direction extent of the outlet 9 and the entry site 7. See figs. 2, 3, 5, and 6 where the vertical side of access site 5 extends substantially perpendicular to the horizontal side of the outlet 9 and entry site 7. The unitary septum 4 is comprised of first and second portions that provide access to the reservoir via the entry site 7 and access site 5. A catheter 12 is attached to the outlet 9 (fig. 3).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Hayes at (571) 272-4959. The examiner can usually be reached Monday -Thursday, 7:00-4:30, and on alternate Fridays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons, can be contacted at (571) 272-4965. The fax number for submitting official papers is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Application/Control Number: 09/690,473

Page 4

Art Unit: 3767

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mjh
23 January 2006



FREDERICK R. SCHMIDT
DIRECTOR
TECHNOLOGY CENTER 3767



MICHAEL J. HAYES
PRIMARY EXAMINER

